

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JOSEPH S. DURAN,
Petitioner,

v.

FOSS,
Respondent.

Case No. [19-cv-01248-JD](#)

ORDER OF TRANSFER

Re: Dkt. No. 4

This is a habeas case filed pro se by a state prisoner. Petitioner challenges a conviction obtained in Solano County Superior Court. Solano County is in the venue of the United States District Court for the Eastern District of California. Petitioner previously filed a habeas petition in the Eastern District regarding this same conviction that was denied on the merits and affirmed by the Ninth Circuit. *See Duran v. Grounds*, No. 14-cv-0094 JAM GGH. Petitioner is incarcerated in this district.


Venue for a habeas action is proper in either the district of confinement or the district of conviction, 28 U.S.C. § 2241(d). Because petitions challenging a conviction are preferably heard in the district of conviction, Habeas L.R. 2254-3(a); *Laue v. Nelson*, 279 F. Supp. 265, 266 (N.D. Cal. 1968), and petitioner was convicted in the Eastern District of California and already filed a habeas petition in that district, this case is **TRANSFERRED** to the United States District Court for the Eastern District of California. *See* 28 U.S.C. § 1406(a); Habeas L.R. 2254-3(b).

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In view of the transfer, the Court will not rule upon plaintiff's motion to proceed in forma pauperis (Docket No. 4) which is **VACATED**.

IT IS SO ORDERED.

Dated: April 16, 2019



JAMES DONATO
United States District Judge

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JOSEPH S. DURAN,
Plaintiff,
v.
FOSS,
Defendant.

Case No. [19-cv-01248-JD](#)

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on April 16, 2019, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Joseph S. Duran ID: AF2185
Salinas Valley State Prison
P.O. Box 1050
Soledad, CA 93960

Dated: April 16, 2019

Susan Y. Soong
Clerk, United States District Court

By: 
LISA R. CLARK, Deputy Clerk to the
Honorable JAMES DONATO